

**State of Illinois
91st General Assembly
Final Senate Journal**

SENATE

6523

FIRST SPECIAL SESSION

SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIRST GENERAL ASSEMBLY

9TH LEGISLATIVE DAY

TUESDAY, DECEMBER 21, 1999

1:25 O'CLOCK P.M.

The Senate met pursuant to adjournment.
Senator Frank Watson, Greenville, Illinois, presiding.
Prayer by Senator Patrick O'Malley, Palos Park, Illinois.
Senator Sieben led the Senate in the Pledge of Allegiance.

The Journal of Saturday, December 18, 1999, was being read when on motion of Senator Myers further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Sunday, December 19, 1999, was being read when on motion of Senator Myers further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Myers moved that reading and approval of the Journal of Monday, December 20, 1999 be postponed pending arrival of the printed Journal.

The motion prevailed.

At the hour of 1:27 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 1:30 o'clock p.m., the Senate resumed consideration of business.

Senator Watson, presiding.

LEGISLATIVE MEASURE FILED

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JOURNAL OF THE

[Dec. 21, 1999]

The following floor amendment to the House Bill listed below has been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 1 to House Bill 2610

Senator Smith asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Karpel asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 1:32 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 1:50 o'clock p.m., the Senate resumed consideration of business.

Senator Watson, presiding.

REPORT FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, reported that the following Legislative Measure has been approved for consideration:

Senate Amendment No. 1 to House Bill 2610

The foregoing floor amendment was placed on the Secretary's Desk.

HOUSE BILL RECALLED

On motion of Senator Petka, **House Bill No. 2610** was recalled from the order of third reading to the order of second reading.

Senators O'Malley - Petka - Philip offered the following amendment:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2610 by replacing everything above the enacting clause with the following:

"AN ACT to re-enact various criminal provisions of Public Act 88-680."; and

by replacing everything below the enacting clause with the following:
"Section 1. Purpose.

(1) The General Assembly finds and declares that:

(i) Public Act 88-680, effective January 1, 1995, contained provisions amending various criminal statutes. Public Act 88-680 also contained other provisions.

(ii) In addition, Public Act 88-680 was entitled "AN ACT to create a Safe Neighborhoods Law". (A) Article 5 was entitled JUVENILE JUSTICE and amended the Juvenile Court Act of 1987. (B) Article 15 was entitled GANGS and amended various provisions of the Criminal Code of 1961 and the Unified Code of Corrections. (C) Article 20 was entitled ALCOHOL ABUSE and amended various provisions of the Illinois Vehicle Code. (D) Article 25 was entitled DRUG ABUSE and amended the Cannabis Control Act and the Illinois Controlled Substances Act. (E) Article 30 was entitled FIREARMS and amended the Criminal Code of 1961 and the Code of

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Criminal Procedure of 1963. (F) Article 35 amended the Criminal Code of 1961, the Rights of Crime Victims and Witnesses Act, and the Unified Code of Corrections. (G) Article 40 amended the Criminal Code of 1961 to increase the penalty for compelling organization membership of persons. (H) Article 45 created the Secure Residential Youth Care Facility Licensing Act and amended the State Finance Act, the Juvenile Court Act of 1987, the Unified Code of Corrections, and the Private Correctional Facility Moratorium Act. (I) Article 50 amended the WIC Vendor Management Act, the Firearm Owners Identification Card Act, the Juvenile Court Act of 1987, the Criminal Code of 1961, the Wrongs to Children Act, and the Unified Code of Corrections.

(iii) On December 2, 1999, the Illinois Supreme Court, in *People v. Cervantes*, Docket No. 87229, ruled that Public Act 88-680 violates the single subject clause of the Illinois Constitution (Article IV, Section 8 (d)) and was unconstitutional in its entirety.

(iv) The criminal provisions of Public Act 88-680 are of vital concern to the people of this State and legislative action concerning various criminal provisions of Public Act 88-680 is necessary.

(2) It is the purpose of this Act to re-enact various criminal provisions (other than provisions relating to child pornography and WIC Fraud that have been re-enacted by Public Acts 91-54 and 91-155 and provisions amending Section 6 of the Firearm Owners Identification Act and other than Section 24-1 of the Criminal Code of 1961) contained in Public Act 88-680, including subsequent amendments. This re-enactment is intended to remove any question as to the validity or content of those provisions.

(3) This Act re-enacts various criminal provisions (other than

provisions relating to child pornography and WIC Fraud that have been re-enacted by Public Acts 91-54 and 91-155 and provisions amending Section 6 of the Firearm Owners Identification Act and other than Section 24-1 of the Criminal Code of 1961) contained in Public Act 88-680, including subsequent amendments, to remove any question as to the validity or content of those provisions; it is not intended to supersede any other Public Act that amends the text of the Sections as set forth in this Act. The material is shown as existing text (i.e., without underscoring), except for technical changes having a revisory function.

ARTICLE 15. GANGS

Section 15-5. The Criminal Code of 1961 is amended by re-enacting Sections 12-6, 32-4, and 32-4a as follows:

(720 ILCS 5/12-6) (from Ch. 38, par. 12-6)

Sec. 12-6. Intimidation.

(a) A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he communicates to another, whether in person, by telephone or by mail, a threat to perform without lawful authority any of the following acts:

- (1) Inflict physical harm on the person threatened or any other person or on property; or
- (2) Subject any person to physical confinement or restraint; or
- (3) Commit any criminal offense; or
- (4) Accuse any person of an offense; or
- (5) Expose any person to hatred, contempt or ridicule; or
- (6) Take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding; or
- (7) Bring about or continue a strike, boycott or other

collective action.

(b) Sentence.

Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

(Source: P.A. 88-680, eff. 1-1-95.)

(720 ILCS 5/32-4) (from Ch. 38, par. 32-4)

Sec. 32-4. Communicating with jurors and witnesses.

(a) A person who, with intent to influence any person whom he believes has been summoned as a juror, regarding any matter which is or may be brought before such juror, communicates, directly or indirectly, with such juror otherwise than as authorized by law commits a Class 4 felony.

(b) A person who, with intent to deter any party or witness from testifying freely, fully and truthfully to any matter pending in any court, or before a Grand Jury, Administrative agency or any other State or local governmental unit, forcibly detains such party or witness, or communicates, directly or indirectly, to such party or witness any knowingly false information or a threat of injury or damage to the property or person of any individual or offers or delivers or threatens to withhold money or another thing of value to

any individual commits a Class 3 felony.

(Source: P.A. 88-680, eff. 1-1-95; 89-377, eff. 8-18-95.)

(720 ILCS 5/32-4a) (from Ch. 38, par. 32-4a)

Sec. 32-4a. Harassment of representatives for the child, jurors, witnesses and family members of representatives for the child, jurors, and witnesses.

(a) A person who, with intent to harass or annoy one who has served or is serving or who is a family member of a person who has served or is serving (1) as a juror because of the verdict returned by the jury in a pending legal proceeding or the participation of the juror in the verdict or (2) as a witness, or who may be expected to serve as a witness in a pending legal proceeding, because of the testimony or potential testimony of the witness, communicates directly or indirectly with the juror, witness, or family member of a juror or witness in such manner as to produce mental anguish or emotional distress or who conveys a threat of injury or damage to the property or person of any juror, witness, or family member of the juror or witness commits a Class 2 felony.

(b) A person who, with intent to harass or annoy one who has served or is serving or who is a family member of a person who has served or is serving as a representative for the child, appointed under Section 506 of the Illinois Marriage and Dissolution of Marriage Act, Section 12 of the Uniform Child Custody Jurisdiction Act, or Section 2-502 of the Code of Civil Procedure, because of the representative service of that capacity, communicates directly or indirectly with the representative or a family member of the representative in such manner as to produce mental anguish or emotional distress or who conveys a threat of injury or damage to the property or person of any representative or a family member of the representative commits a Class A misdemeanor.

(c) For purposes of this Section, "family member" means a spouse, parent, child, stepchild or other person related by blood or by present marriage, a person who has, or allegedly has a child in common, and a person who shares or allegedly shares a blood relationship through a child.

(Source: P.A. 89-686, eff. 6-1-97; 90-126, eff. 1-1-98.)

Section 15-15. The Unified Code of Corrections is amended by re-enacting Sections 5-5-3.2, 5-6-3, and 5-6-3.1 as follows:

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

Sec. 5-5-3.2. Factors in Aggravation.

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(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the

activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961; ~~or~~

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act; or-

(19) ~~(18)~~ the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

(b) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally

(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing the death of more than one individual; or

(4) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or

(6) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(8) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(9) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 and the court finds

that the defendant is a member of an organized gang; or

(10) When a defendant committed the offense using a firearm with a laser sight attached to it. For purposes of this paragraph (10), "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or-

(11) ~~(10)~~ When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the

conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody.

(b-1) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 where the victim was under 18 years of age at the time of the commission of the offense.

(d) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961.

(Source: P.A. 90-14, eff. 7-1-97; 90-651, eff. 1-1-99; 90-686, eff. 1-1-99; 91-119, eff. 1-1-00; 91-120, eff. 7-15-99; 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; revised 8-30-99.)

(730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

- (1) not violate any criminal statute of any jurisdiction;
- (2) report to or appear in person before such person or agency as directed by the court;
- (3) refrain from possessing a firearm or other dangerous weapon;
- (4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer;
- (5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;
- (6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the

criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development

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(GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program; and

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

- (2) pay a fine and costs;
- (3) work or pursue a course of study or vocational training;
- (4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
- (6) support his dependents;
- (7) and in addition, if a minor:
 - (i) reside with his parents or in a foster home;
 - (ii) attend school;
 - (iii) attend a non-residential program for youth;
 - (iv) contribute to his own support at home or in a foster home;
- (8) make restitution as provided in Section 5-5-6 of this Code;
- (9) perform some reasonable public or community service;
- (10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:
 - (i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;
 - (ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and
 - (iii) if further deemed necessary by the court or the

Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless

after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional

discharge shall be given a certificate setting forth the conditions thereof.

(e) The court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts, or to another state under an Interstate Probation Reciprocal Agreement as provided in Section 3-3-11. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992, as a condition of such probation or conditional discharge, a fee of \$25 for each month of probation or conditional

discharge supervision ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively

supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98; 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 91-325, eff. 7-29-99.)

(730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

Sec. 5-6-3.1. Incidents and Conditions of Supervision.

(a) When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of such supervision, and shall defer further proceedings in the case until the conclusion of the period.

(b) The period of supervision shall be reasonable under all of the circumstances of the case, but may not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act or Section 411.2 of the Illinois Controlled Substances Act, in which case the court may extend supervision beyond 2 years. Additionally, the court shall order the defendant to perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, when the offense (1) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang; or (2) is a violation of any Section of Article 24 of the Criminal Code of 1961 where a disposition of supervision is not prohibited by Section 5-6-1 of this Code. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by violation of Section 21-1.3 of the Criminal Code of 1961 and similar damages to property located within the municipality or county in which the violation occurred. Where possible and reasonable, the community service should be performed in the offender's neighborhood.

For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric

- treatment; or treatment for drug addiction or alcoholism;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
 - (6) support his dependents;
 - (7) refrain from possessing a firearm or other dangerous weapon;
 - (8) and in addition, if a minor:
 - (i) reside with his parents or in a foster home;
 - (ii) attend school;
 - (iii) attend a non-residential program for youth;
 - (iv) contribute to his own support at home or in a foster home; and
 - (9) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss or make restitution under Section 5-5-6 to a domestic violence shelter. The court shall determine the amount and conditions of payment;
 - (10) perform some reasonable public or community service;
 - (11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986. If the court has ordered the defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of protection shall be transmitted to the person or agency so designated by the court;
 - (12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;
 - (13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;
 - (14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;
 - (15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of person, including but not limited to members of street gangs and drug users or dealers;
 - (16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;
 - (17) refrain from operating any motor vehicle not equipped with an ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code. Under this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the

defendant's employment.

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which case it shall be 5 years after discharge and dismissal, a person may have his record of arrest sealed or expunged as may be provided by law. However, any defendant placed on supervision before January 1, 1980, may move for sealing or expungement of his arrest record, as provided by law, at any time after discharge and dismissal under this Section. A person placed on supervision for a sexual offense committed against a minor as defined in subsection (g) of Section 5 of the Criminal Identification Act or for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay the costs incidental to such mandatory drug or alcohol testing, or both, and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, of all defendants placed on supervision. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) A disposition of supervision is a final order for the purposes of appeal.

(i) The court shall impose upon a defendant placed on supervision after January 1, 1992, as a condition of supervision, a

fee of \$25 for each month of supervision ordered by the court, unless after determining the inability of the person placed on supervision to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon a defendant who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of the Probation and Probation Officers Act.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as

provided under Section 27.5 of the Clerks of Courts Act.

(k) A defendant at least 17 years of age who is placed on supervision for a misdemeanor in a county of 3,000,000 or more inhabitants and who has not been previously convicted of a misdemeanor or felony may as a condition of his or her supervision be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The defendant placed on supervision must attend a public institution of education to obtain the educational or vocational training required by this subsection (k). The defendant placed on supervision shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall revoke the supervision of a person who wilfully fails to comply with this subsection (k). The court shall resentence the defendant upon revocation of supervision as provided in Section 5-6-4. This subsection (k) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (k) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(l) The court shall require a defendant placed on supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and after a finding by the court that the person is addicted, to undergo treatment at a substance abuse program approved by the court.

(m) The court shall require a defendant placed on supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance, as a condition of supervision, to give proof of his or her financial responsibility as

defined in Section 7-315 of the Illinois Vehicle Code. The proof shall be maintained by the defendant in a manner satisfactory to the Secretary of State for a minimum period of one year after the date the proof is first filed. The Secretary of State shall suspend the driver's license of any person determined by the Secretary to be in violation of this subsection.

(Source: P.A. 90-14, eff. 7-1-97; 90-399, eff. 1-1-98; 90-504, eff. 1-1-98; 90-655, eff. 7-30-98; 90-784, eff. 1-1-99; 91-127, eff. 1-1-00.)

ARTICLE 20. ALCOHOL ABUSE

Section 20-900. The Illinois Vehicle Code is amended by re-enacting Sections 6-303 and 11-501 as follows:

(625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

Sec. 6-303. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.

(a) Any person who drives or is in actual physical control of a motor vehicle on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, except as may be specifically allowed by a judicial driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to this Code or under the law of another state, shall be guilty of a Class A misdemeanor.

(b) The Secretary of State upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle during the time when said person's driver's license, permit or privilege was suspended by the Secretary, by the appropriate authority of another state, or pursuant to Section 11-501.1; except as may be specifically allowed by a probationary license to drive, judicial driving permit or restricted driving permit issued pursuant to this Code or the law of another state; shall extend the suspension for the same period of time as the originally imposed suspension; however, if the period of suspension has then expired, the Secretary shall be authorized to suspend said person's driving privileges for the same period of time as the originally imposed suspension; and if the conviction was upon a charge which indicated that a vehicle was operated during the time when the person's driver's license, permit or privilege was revoked; except as may be allowed by a restricted driving permit issued pursuant to this Code or the law of another state; the Secretary shall not issue a driver's license for an additional period of one year from the date of such conviction indicating such person was operating a vehicle during such period of revocation.

(c) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 7 consecutive days or 30 days of community service when the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a vehicle while under

the influence of alcohol, any other drug or any combination thereof; or

(2) a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a violation of Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide; or

(4) a statutory summary suspension under Section 11-501.1 of this Code.

Such sentence of imprisonment or community service shall not be subject to suspension in order to reduce such sentence.

(d) Any person convicted of a second or subsequent violation of this Section shall be guilty of a Class 4 felony if the original revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense, or a statutory summary suspension under Section 11-501.1 of this Code.

(e) Any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements, in addition to other penalties imposed under this Section, shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(f) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(Source: P.A. 89-8, eff. 3-21-95; 89-92, eff. 7-1-96; 89-159, eff. 1-1-96; 89-626, eff. 8-9-96; 90-400, eff. 8-15-97; 90-738, eff.

1-1-99.)

(625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or

drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(c) Except as provided under paragraphs (c-3) and (d) of this Section, every person convicted of violating this Section or a similar provision of a local ordinance, shall be guilty of a Class A misdemeanor and, in addition to any other criminal or administrative action, for any second conviction of violating this Section or a similar provision of a law of another state or local ordinance committed within 5 years of a previous violation of this Section or a similar provision of a local ordinance shall be mandatorily sentenced to a minimum of 48 consecutive hours of imprisonment or assigned to a minimum of 100 hours of community service as may be determined by the court. Every person convicted of violating this Section or a similar provision of a local ordinance shall be subject to a mandatory minimum fine of \$500 and a mandatory 5 days of community service in a program benefiting children if the person committed a violation of paragraph (a) or a similar provision of a local ordinance while transporting a person under age 16. Every person convicted a second time for violating this Section or a similar provision of a local ordinance within 5 years of a previous violation of this Section or a similar provision of a law of another state or local ordinance shall be subject to a mandatory minimum fine of \$500 and 10 days of mandatory community service in a program benefiting children if the current offense was committed while transporting a person under age 16. The imprisonment or assignment under this subsection shall not be subject to suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(c-1) (1) A person who violates this Section during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of this Section, Section 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4

felony.

(2) A person who violates this Section a third time during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of this Section, Section 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 of the Criminal Code of 1961 is guilty of a Class 3 felony.

(3) A person who violates this Section a fourth or subsequent time during a period in which his or her driving

privileges are revoked or suspended where the revocation or suspension was for a violation of this Section, Section 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 of the Criminal Code of 1961 is guilty of a Class 2 felony.

(c-2) (Blank).

(c-3) Every person convicted of violating this Section or a similar provision of a local ordinance who had a child under age 16 in the vehicle at the time of the offense shall have his or her punishment under this Act enhanced by 2 days of imprisonment for a first offense, 10 days of imprisonment for a second offense, 30 days of imprisonment for a third offense, and 90 days of imprisonment for a fourth or subsequent offense, in addition to the fine and community service required under subsection (c) and the possible imprisonment required under subsection (d). The imprisonment or assignment under this subsection shall not be subject to suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of this Section, or a similar provision of a law of another state or a local ordinance when the cause of action is the same as or substantially similar to this Section, for the third or subsequent time;

(B) the person committed a violation of paragraph (a) while driving a school bus with children on board;

(C) the person in committing a violation of paragraph (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries; or

(D) the person committed a violation of paragraph (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) of this paragraph (1).

(2) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is a Class 4 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to not less than one year and not more than 3 years for a violation of subparagraph (A), (B) or (D) of paragraph (1) of this subsection (d) and not less than one year and not more than 12 years for a violation of subparagraph (C) of paragraph (1) of this subsection (d). For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for

a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided under Section 5-5-3 of the Unified Code of Corrections.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) Every person sentenced under subsection (d) of this Section and who receives a term of probation or conditional discharge shall be required to serve a minimum term of either 30 days community service or, beginning July 1, 1993, 48 consecutive hours of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended and shall not be subject to reduction by the court.

(i) The Secretary of State may use ignition interlock device requirements when granting driving relief to individuals who have been arrested for a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of violating this Section shall be fined \$100, payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. In the event that more than one agency is responsible for the arrest, the \$100 shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers.

(Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97; 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff. 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357, eff. 7-29-99.)

ARTICLE 25. DRUG ABUSE

Section 25-10. The Cannabis Control Act is amended by re-enacting Section 10 as follows:

(720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

Sec. 10. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for, any offense under this Act or any law of the United States or of any State relating to cannabis, or controlled substances as defined in the Illinois Controlled Substances Act, pleads guilty to or is found guilty of violating Sections 4 (a), 4 (b), 4 (c), 5 (a), 5 (b), 5 (c) or 8 of this Act, the court may, without entering a judgment and with the consent of such person, sentence him to probation.

(b) When a person is placed on probation, the court shall enter

an order specifying a period of probation of 24 months, and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possession of a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

(7-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(8) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime (including the additional penalty imposed for subsequent offenses under Section 4 (c), 4 (d), 5 (c) or

5 (d) of this Act).

(h) Discharge and dismissal under this Section or under Section 410 of the Illinois Controlled Substances Act may occur only once with respect to any person.

(i) If a person is convicted of an offense under this Act or the Illinois Controlled Substances Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as a factor in aggravation.

(Source: P.A. 88-510; 88-680, eff. 1-1-95.)

Section 25-15. The Illinois Controlled Substances Act is amended by re-enacting Section 410 as follows:

(720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

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Sec. 410. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for any offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a controlled or counterfeit substance under subsection (c) of Section 402, the court, without entering a judgment and with the consent of such person, may sentence him to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possessing a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(6-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the

Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) There may be only one discharge and dismissal under this

Section or Section 10 of the Cannabis Control Act with respect to any person.

(i) If a person is convicted of an offense under this Act or the Cannabis Control Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(Source: P.A. 88-510; 88-680, eff. 1-1-95; 89-507, eff. 7-1-97.)

ARTICLE 30. FIREARMS

Section 30-905. The Criminal Code of 1961 is amended by re-enacting Sections 24-3A, 24-5, 24-6, and 32-10 as follows:

(720 ILCS 5/24-3A)

Sec. 24-3A. Gunrunning.

(a) A person commits gunrunning when he or she transfers 3 or more firearms in violation of any of the paragraphs of Section 24-3 of this Code.

(b) Sentence. A person who commits gunrunning is guilty of a Class 1 felony. A person who commits gunrunning by transferring firearms to a person who, at the time of the commission of the offense, is under 18 years of age is guilty of a Class X felony.

(Source: P.A. 91-13, eff. 1-1-00.)

(720 ILCS 5/24-5) (from Ch. 38, par. 24-5)

Sec. 24-5. Defacing identification marks of firearms.

(a) Any person who shall knowingly or intentionally change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any firearm commits a Class 2 felony.

(b) Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or

obliterated the same.

(Source: P.A. 88-680, eff. 1-1-95.)

(720 ILCS 5/24-6) (from Ch. 38, par. 24-6)

Sec. 24-6. Confiscation and disposition of weapons.

(a) Upon conviction of an offense in which a weapon was used or possessed by the offender, any weapon seized shall be confiscated by the trial court.

(b) Any stolen weapon so confiscated, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. After the disposition of a criminal case or in any criminal case where a final judgment in the case was not entered due to the death of the defendant, and when a confiscated weapon is no longer needed for evidentiary purposes, and when in due course no legitimate claim has been made for the weapon, the court may transfer the weapon to the sheriff of the county who may proceed to destroy it, or may in its discretion order the weapon preserved as property of the governmental body whose police agency seized the weapon, or may in its discretion order the weapon to be transferred to the Department of State Police for use by the crime laboratory system, for training purposes, or for any other application as deemed appropriate by the Department. If, after the disposition of a criminal case, a need still exists for the use of the confiscated weapon for evidentiary purposes, the court may transfer the weapon to the custody of the State Department of Corrections for preservation. The court may not order the transfer of the weapon to any private individual or private organization other than to return a stolen weapon to its rightful owner.

The provisions of this Section shall not apply to violations of the Fish and Aquatic Life Code or the Wildlife Code. Confiscation of weapons for Fish and Aquatic Life Code and Wildlife Code violations shall be only as provided in those Codes.

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(c) Any mental hospital that admits a person as an inpatient pursuant to any of the provisions of the Mental Health and Developmental Disabilities Code shall confiscate any firearms in the possession of that person at the time of admission, or at any time the firearms are discovered in the person's possession during the course of hospitalization. The hospital shall, as soon as possible following confiscation, transfer custody of the firearms to the appropriate law enforcement agency. The hospital shall give written notice to the person from whom the firearm was confiscated of the identity and address of the law enforcement agency to which it has given the firearm.

The law enforcement agency shall maintain possession of any firearm it obtains pursuant to this subsection for a minimum of 90 days. Thereafter, the firearm may be disposed of pursuant to the provisions of subsection (b) of this Section.

(Source: P.A. 87-464; 87-895; 88-352; 88-680, eff. 1-1-95.)

(720 ILCS 5/32-10) (from Ch. 38, par. 32-10)

Sec. 32-10. Violation of bail bond.

(a) Whoever, having been admitted to bail for appearance before any court of this State, incurs a forfeiture of the bail and willfully fails to surrender himself within 30 days following the

date of such forfeiture, commits, if the bail was given in connection with a charge of felony or pending appeal or certiorari after conviction of any offense, a felony of the next lower Class or a Class A misdemeanor if the underlying offense was a Class 4 felony; or, if the bail was given in connection with a charge of committing a misdemeanor, or for appearance as a witness, commits a misdemeanor of the next lower Class, but not less than a Class C misdemeanor.

(a-5) Any person who violates a condition of bail bond by possessing a firearm in violation of his or her conditions of bail commits a Class 4 felony for a first violation and a Class 3 felony for a second violation.

(b) Whoever, having been admitted to bail for appearance before any court of this State, while charged with a criminal offense in which the victim is a family or household member as defined in Article 112A of the Code of Criminal Procedure of 1963, knowingly violates a condition of that release as set forth in Section 110-10, subsection (d) of the Code of Criminal Procedure of 1963, commits a Class A misdemeanor.

(c) Whoever, having been admitted to bail for appearance before any court of this State for a felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member as defined in Article 112A of the Code of Criminal Procedure of 1963, is charged with any other felony, Class A misdemeanor, or a criminal offense in which the victim is a family or household member as defined in Article 112A of the Code of Criminal Procedure of 1963 while on such release, must appear before the court before bail is statutorily set.

(d) Nothing in this Section shall interfere with or prevent the exercise by any court of its power to punishment for contempt. Any sentence imposed for violation of this Section shall be served consecutive to the sentence imposed for the charge for which bail had been granted and with respect to which the defendant has been convicted.

(Source: P.A. 88-430; 88-680, eff. 1-1-95; 89-203, eff. 7-21-95.)

Section 15-910. The Code of Criminal Procedure of 1963 is amended by re-enacting Section 110-10 as follows:

(725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

Sec. 110-10. Conditions of bail bond.

(a) If a person is released prior to conviction, either upon payment of bail security or on his or her own recognizance, the

conditions of the bail bond shall be that he or she will:

(1) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court;

(2) Submit himself or herself to the orders and process of the court;

(3) Not depart this State without leave of the court;

(4) Not violate any criminal statute of any jurisdiction;

(5) At a time and place designated by the court, surrender all firearms in his or her possession to a law enforcement officer designated by the court to take custody of and impound the firearms when the offense the person has been charged with is

a forcible felony, stalking, aggravated stalking, domestic battery, any violation of either the Illinois Controlled Substances Act or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961; the court may, however, forgo ~~forego~~ the imposition of this condition when the circumstances of the case clearly do not warrant it or when its imposition would be impractical; all legally possessed firearms shall be returned to the person upon that person completing a sentence for a conviction on a misdemeanor domestic battery, upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity; and

(6) At a time and place designated by the court, submit to a psychological evaluation when the person has been charged with a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 and that violation occurred in a school or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school.

Psychological evaluations ordered pursuant to this Section shall be completed promptly and made available to the State, the defendant, and the court. As a further condition of bail under these circumstances, the court shall order the defendant to refrain from entering upon the property of the school, including any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school. Upon receipt of the psychological evaluation, either the State or the defendant may request a change in the conditions of bail, pursuant to Section 110-6 of this Code. The court may change the conditions of bail to include a requirement that the defendant follow the recommendations of the psychological evaluation, including undergoing psychiatric treatment. The conclusions of the psychological evaluation and any statements elicited from the defendant during its administration are not admissible as evidence of guilt during the course of any trial on the charged offense, unless the defendant places his or her mental competency in issue.

(b) The court may impose other conditions, such as the following, if the court finds that such conditions are reasonably necessary to assure the defendant's appearance in court, protect the public from the defendant, or prevent the defendant's unlawful interference with the orderly administration of justice:

- (1) Report to or appear in person before such person or agency as the court may direct;
- (2) Refrain from possessing a firearm or other dangerous weapon;
- (3) Refrain from approaching or communicating with particular persons or classes of persons;

(4) Refrain from going to certain described geographical areas or premises;

(5) Refrain from engaging in certain activities or

- indulging in intoxicating liquors or in certain drugs;
- (6) Undergo treatment for drug addiction or alcoholism;
 - (7) Undergo medical or psychiatric treatment;
 - (8) Work or pursue a course of study or vocational training;
 - (9) Attend or reside in a facility designated by the court;
 - (10) Support his or her dependents;
 - (11) If a minor resides with his or her parents or in a foster home, attend school, attend a non-residential program for youths, and contribute to his or her own support at home or in a foster home;
 - (12) Observe any curfew ordered by the court;
 - (13) Remain in the custody of such designated person or organization agreeing to supervise his release. Such third party custodian shall be responsible for notifying the court if the defendant fails to observe the conditions of release which the custodian has agreed to monitor, and shall be subject to contempt of court for failure so to notify the court;
 - (14) Be placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with or without the use of an approved electronic monitoring device subject to Article 8A of Chapter V of the Unified Code of Corrections; ~~or~~
 - (14.1) The court shall impose upon a defendant who is charged with any alcohol, cannabis or controlled substance violation and is placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee that represents costs incidental to the electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code;
 - (14.2) The court shall impose upon all defendants, including those defendants subject to paragraph (14.1) above, placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee which shall represent costs incidental to such electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be;
 - (15) Comply with the terms and conditions of an order of

Violence Act of 1986;

(16) Under Section 110-6.5 comply with the conditions of the drug testing program; and

(17) Such other reasonable conditions as the court may impose.

(c) When a person is charged with an offense under Section 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or releasing the defendant on his own recognizance, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the Household.
2. Make payment of temporary support to his dependents.
3. Refrain from contact or communication with the child victim, except as ordered by the court.

(d) When a person is charged with a criminal offense and the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the defendant's release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:

(1) refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release; and

(2) refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

(e) Local law enforcement agencies shall develop standardized bond forms for use in cases involving family or household members as defined in Article 112A, including specific conditions of bond as provided in subsection (d). Failure of any law enforcement department to develop or use those forms shall in no way limit the applicability and enforcement of subsections (d) and (f).

(f) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will, in addition to the conditions set forth in subsections (a) and (b) hereof:

- (1) Duly prosecute his appeal;
- (2) Appear at such time and place as the court may direct;
- (3) Not depart this State without leave of the court;
- (4) Comply with such other reasonable conditions as the court may impose; and,

(5) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

(Source: P.A. 90-399, eff. 1-1-98; 91-11, eff. 6-4-99; 91-312, eff. 1-1-00; revised 10-15-99.)

ARTICLE 35

Section 35-5. The Criminal Code of 1961 is amended by re-enacting Sections 8-4, 12-4.2, and 24-1.2 as follows:

(720 ILCS 5/8-4) (from Ch. 38, par. 8-4)
Sec. 8-4. Attempt.

(a) Elements of the Offense.

A person commits an attempt when, with intent to commit a specific offense, he does any act which constitutes a substantial step toward the commission of that offense.

(b) Impossibility.

It shall not be a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.

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(c) Sentence.

A person convicted of an attempt may be fined or imprisoned or both not to exceed the maximum provided for the offense attempted but, except for an attempt to commit the offense defined in Section 33A-2 of this Act,

(1) the sentence for attempt to commit first degree murder is the sentence for a Class X felony, except that

(A) an attempt to commit first degree murder when at least one of the aggravating factors specified in paragraphs (1), (2) and (12) of subsection (b) of Section 9-1 is present is a Class X felony for which the sentence shall be a term of imprisonment of not less than 20 years and not more than 80 years;

(B) an attempt to commit first degree murder while armed with a firearm is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court;

(C) an attempt to commit first degree murder during which the person personally discharged a firearm is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court;

(D) an attempt to commit first degree murder during which the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(2) the sentence for attempt to commit a Class X felony is the sentence for a Class 1 felony;

(3) the sentence for attempt to commit a Class 1 felony is the sentence for a Class 2 felony;

(4) the sentence for attempt to commit a Class 2 felony is the sentence for a Class 3 felony; and

(5) the sentence for attempt to commit any felony other than those specified in Subsections (1), (2), (3) and (4) hereof is the sentence for a Class A misdemeanor.

(Source: P.A. 91-404, eff. 1-1-00.)

(720 ILCS 5/12-4.2) (from Ch. 38, par. 12-4.2)

Sec. 12-4.2. Aggravated Battery with a firearm.

(a) A person commits aggravated battery with a firearm when he, in committing a battery, knowingly or intentionally by means of the

discharging of a firearm (1) causes any injury to another person, or (2) causes any injury to a person he knows to be a peace officer, a community policing volunteer, a correctional institution employee or a fireman while the officer, volunteer, employee or fireman is engaged in the execution of any of his official duties, or to prevent the officer, volunteer, employee or fireman from performing his official duties, or in retaliation for the officer, volunteer, employee or fireman performing his official duties, or (3) causes any injury to a person he knows to be an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel, employed by a municipality or other governmental unit, while the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel is engaged in the execution of any of his official duties, or to prevent the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other

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medical assistance or first aid personnel from performing his official duties, or in retaliation for the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel performing his official duties, or (4) causes any injury to a person he or she knows to be a teacher or other person employed in a school and the teacher or other employee is upon grounds of a school or grounds adjacent to a school, or is in any part of a building used for school purposes.

(b) A violation of subsection (a) (1) of this Section is a Class X felony. A violation of subsection (a) (2), subsection (a) (3), or subsection (a)(4) of this Section is a Class X felony for which the sentence shall be a term of imprisonment of no less than 15 years and no more than 60 years.

(c) For purposes of this Section, "firearm" is defined as in "An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition, to provide a penalty for the violation thereof and to make an appropriation in connection therewith", approved August 1, 1967, as amended.

(Source: P.A. 90-651, eff. 1-1-99; 91-434, eff. 1-1-00.)

(720 ILCS 5/24-1.2) (from Ch. 38, par. 24-1.2)

Sec. 24-1.2. Aggravated discharge of a firearm.

(a) A person commits aggravated discharge of a firearm when he or she knowingly or intentionally:

(1) Discharges a firearm at or into a building he or she knows or reasonably should know to be occupied and the firearm is discharged from a place or position outside that building;

(2) Discharges a firearm in the direction of another person or in the direction of a vehicle he or she knows or reasonably should know to be occupied by a person;

(3) Discharges a firearm in the direction of a person he or she knows to be a peace officer, a community policing volunteer, a correctional institution employee, or a fireman while the

officer, volunteer, employee or fireman is engaged in the execution of any of his or her official duties, or to prevent the officer, volunteer, employee or fireman from performing his or her official duties, or in retaliation for the officer, volunteer, employee or fireman performing his or her official duties;

(4) Discharges a firearm in the direction of a vehicle he or she knows to be occupied by a peace officer, a person summoned or directed by a peace officer, a correctional institution employee or a fireman while the officer, employee or fireman is engaged in the execution of any of his or her official duties, or to prevent the officer, employee or fireman from performing his or her official duties, or in retaliation for the officer, employee or fireman performing his or her official duties;

(5) Discharges a firearm in the direction of a person he or she knows to be an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel, employed by a municipality or other governmental unit, while the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel is engaged in the execution of any of his or her official duties, or to prevent the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel from performing his or her official duties, or in

retaliation for the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel performing his or her official duties; ~~or~~

(6) Discharges a firearm in the direction of a vehicle he or she knows to be occupied by an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel, employed by a municipality or other governmental unit, while the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel is engaged in the execution of any of his or her official duties, or to prevent the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel from performing his or her official duties, or in retaliation for the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel performing his or her official duties; or

(7) Discharges a firearm in the direction of a person he or she knows to be a teacher or other person employed in any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to a school, or is in any part of a building used for school purposes.

(b) A violation of subsection (a)(1) or subsection (a)(2) of this Section is a Class 1 felony. A violation of subsection (a)(1) or (a)(2) of this Section committed in a school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, regardless of the time of day or time of year that the offense was committed is a Class X felony. A violation of subsection (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) of this Section is a Class X felony for which the sentence shall be a term of imprisonment of no less than 10 years and not more than 45 years.

(c) For purposes of this Section:

"School" means a public or private elementary or secondary school, community college, college, or university.

"School related activity" means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(Source: P.A. 90-651, eff. 1-1-99; 91-12, eff. 1-1-00; 91-357, eff. 7-29-99; 91-434, eff. 1-1-00; revised 8-30-99.)

Section 35-15. The Rights of Crime Victims and Witnesses Act is amended by re-enacting Sections 4.5 and 6 as follows:

(725 ILCS 120/4.5)

Sec. 4.5. Procedures to implement the rights of crime victims. To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

(a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with

the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.

(b) The office of the State's Attorney:

(1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime;

(2) shall provide notice of the date, time, and place of trial;

(3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;

(4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or

other purposes returned as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;

(5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(6) shall provide information whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or juveniles accused of a violent crime, and their families and friends;

(7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings;

(8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;

(9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case; and

(10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section; and

(11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law.

(c) At the written request of the crime victim, the office of the State's Attorney shall:

(1) provide notice a reasonable time in advance of the following court proceedings: preliminary hearing, any hearing the effect of which may be the release of defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to

prevent an unnecessary appearance in court;

(2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for a violent crime;

(3) explain in nontechnical language the details of any

plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for a violent crime;

(4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;

(5) provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime;

(6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;

(7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given in advance;

(8) forward a copy of any statement presented under Section 6 to the Prisoner Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

(d) (1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release or by the custodian of the discharge of any individual who was adjudicated a delinquent for a violent crime from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall provide to a victim or any other concerned citizen a recent photograph of any person convicted of a felony, upon his or her release from custody. The Prisoner Review Board, upon written request, shall inform a victim or any other concerned citizen when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim or any other concerned citizen, the State's Attorney shall notify the person once of the times and dates of release of a prisoner sentenced to periodic imprisonment. Notification shall be based on the most recent information as to victim's or other concerned citizen's residence or other location available to the notifying authority. For purposes of this paragraph (1) of subsection (d), "concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the defendant's discharge from State custody.

(3) In the event of an escape from State custody, the Department of Corrections immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most

recent information as to the victim's residence or other location available to the Board. When no such information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections immediately shall notify the Prisoner Review Board and the Board shall notify the victim.

(4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than 15 days prior to the parole hearing and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole hearing, information for consideration by the Prisoner Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole and shall be informed of the right to inspect the registry of parole decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act.

(5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

(6) At the written request of the victim of the crime for which the prisoner was sentenced, the Prisoner Review Board shall notify the victim of the death of the prisoner if the prisoner died while on parole or mandatory supervised release.

(7) When a defendant who has been committed to the Department of Corrections or the Department of Human Services is released or discharged and subsequently committed to the Department of Human Services as a sexually violent person and the victim had requested to be notified by the releasing authority of the defendant's discharge from State custody, the releasing authority shall provide to the Department of Human Services such information that would allow the Department of Human Services to contact the victim.

(e) The officials named in this Section may satisfy some or all of their obligations to provide notices and other information through participation in a statewide victim and witness notification system established by the Attorney General under Section 8.5 of this Act.

(Source: P.A. 90-14, eff. 7-1-97; 90-793, eff. 8-14-98; 91-237, 1-1-00.)

(725 ILCS 120/6) (from Ch. 38, par. 1406)

Sec. 6. Rights to present victim impact statement.

(a) In any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime except those in which both parties have agreed to the imposition of a specific sentence, and a victim of the violent crime is present in the courtroom at the time of the sentencing or the disposition hearing, the victim upon his or her request shall have the right to address the court regarding the impact which the defendant's criminal conduct or the juvenile's delinquent conduct has had upon the victim. If the victim chooses to exercise this right, the impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the

initial hearing or sentencing, before it can be presented orally or in writing at the sentencing hearing. In conjunction with the Office of the State's Attorney, a victim impact statement that is presented orally may be done so by the victim or his or her representative. The court shall consider any statements made by the victim, along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

(b) The crime victim has the right to prepare a victim impact statement and present it to the Office of the State's Attorney at any time during the proceedings.

(c) This Section shall apply to any victims of a violent crime during any dispositional hearing under Section 5-705 of the Juvenile Court Act of 1987 which takes place pursuant to an adjudication of delinquency for any such offense.

(Source: P.A. 89-546, eff. 1-1-97; 90-590, eff. 1-1-99.)

Section 35-20. The Unified Code of Corrections is amended by re-enacting Sections 3-6-4, 3-10-13, 3-14-1, and 3-14-4 as follows:

(730 ILCS 5/3-6-4) (from Ch. 38, par. 1003-6-4)

Sec. 3-6-4. Enforcement of Discipline - Escape.

(a) A committed person who escapes or attempts to escape from an institution or facility of the Adult Division, or escapes or attempts to escape while in the custody of an employee of the Adult Division, or holds or participates in the holding of any person as a hostage by force, threat or violence, or while participating in any disturbance, demonstration or riot, causes, directs or participates in the destruction of any property is guilty of a Class 2 felony. A committed person who fails to return from furlough or from work and day release is guilty of a Class 3 felony.

(b) If one or more committed persons injures or attempts to injure in a violent manner any employee, officer, guard, other peace officer or any other committed person or damages or attempts to damage any building or workshop, or any appurtenances thereof, or attempts to escape, or disobeys or resists any lawful command, the employees, officers, guards and other peace officers shall use all suitable means to defend themselves, to enforce the observance of discipline, to secure the persons of the offenders, and prevent such attempted violence or escape; and said employees, officers, guards, or other peace officers, or any of them, shall, in the attempt to prevent the escape of any such person, or in attempting to retake any such person who has escaped, or in attempting to prevent or suppress violence by a committed person against another person, a riot, revolt, mutiny or insurrection, be justified in the use of force, including force likely to cause death or great bodily harm under Section 7-8 of the Criminal Code of 1961 which he reasonably believed necessary.

As used in this Section, "committed person" includes a person held in detention in a secure facility or committed as a sexually violent person and held in a secure facility under the Sexually Violent Persons Commitment Act; and "peace officer" means any officer or member of any duly organized State, county or municipal police unit or police force.

(c) The Department shall establish procedures to provide

immediate notification of the escape of any person, as defined in subsection (a) of this Section, to the persons specified in subsection (c) of Section 3-14-1 of this Code.

(Source: P.A. 89-8, eff. 3-21-95; 90-793, eff. 8-14-98.)

(730 ILCS 5/3-10-13)

Sec. 3-10-13. Notifications of Release or Escape.

(a) The Department shall establish procedures to provide written notification of the release of any person from the Juvenile Division to the persons and agencies specified in subsection (c) of Section 3-14-1 of this Code.

(b) The Department shall establish procedures to provide immediate notification of the escape of any person from the Juvenile Division to the persons and agencies specified in subsection (c) of Section 3-14-1 of this Code.

(Source: P.A. 88-680, eff. 1-1-95; 89-8, eff. 3-21-95.)

(730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

Sec. 3-14-1. Release from the Institution.

(a) Upon release of a person on parole, mandatory release, final discharge or pardon the Department shall return all property held for him, provide him with suitable clothing and procure necessary transportation for him to his designated place of residence and employment. It may provide such person with a grant of money for travel and expenses which may be paid in installments. The amount of the money grant shall be determined by the Department.

The Department of Corrections may establish and maintain, in any institution it administers, revolving funds to be known as "Travel and Allowances Revolving Funds". These revolving funds shall be used for advancing travel and expense allowances to committed, paroled, and discharged prisoners. The moneys paid into such revolving funds shall be from appropriations to the Department for Committed, Paroled, and Discharged Prisoners.

(b) (Blank).

(c) Except as otherwise provided in this Code, the Department shall establish procedures to provide written notification of any release of any person who has been convicted of a felony to the State's Attorney and sheriff of the county from which the offender was committed, and the State's Attorney and sheriff of the county into which the offender is to be paroled or released. Except as otherwise provided in this Code, the Department shall establish procedures to provide written notification to the proper law enforcement agency for any municipality of any release of any person who has been convicted of a felony if the arrest of the offender or the commission of the offense took place in the municipality, if the offender is to be paroled or released into the municipality, or if the offender resided in the municipality at the time of the commission of the offense. If a person convicted of a felony who is in the custody of the Department of Corrections or on parole or mandatory supervised release informs the Department that he or she has resided, resides, or will reside at an address that is a housing facility owned, managed, operated, or leased by a public housing agency, the Department must send written notification of that information to the public housing agency that owns, manages,

operates, or leases the housing facility. The written notification shall, when possible, be given at least 14 days before release of the person from custody, or as soon thereafter as possible.

(c-1) (Blank).

(d) Upon the release of a committed person on parole, mandatory supervised release, final discharge or pardon, the Department shall provide such person with information concerning programs and services of the Illinois Department of Public Health to ascertain whether such person has been exposed to the human immunodeficiency virus (HIV) or any identified causative agent of Acquired Immunodeficiency Syndrome (AIDS).

(Source: P.A. 91-506, eff. 8-13-99.)

(730 ILCS 5/3-14-4) (from Ch. 38, par. 1003-14-4)

Sec. 3-14-4. Half-way Houses.

(a) The Department may establish and maintain half-way houses for the residence of persons on parole or mandatory release. Such half-way houses shall be maintained apart from security institutions, except that the Director of Corrections is authorized to designate that any work or day release facility, or any portion thereof, may be used as a half-way house for the residence of persons on parole or mandatory supervised release.

(b) For those persons to be placed in a half-way house directly upon release from an institution on parole or mandatory supervised release status, not less than 15 days prior to the placement of such a person in such a half-way house, the Department of Corrections

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shall give written notice to the State's Attorney and the Sheriff of the county and the proper law enforcement agency of the municipality in which the half-way house is located of the identity of the person to be placed in that program. Such identifying information shall include, but not be limited to, the name of the individual, age, physical description, photograph, the crime for which the person was originally sentenced to the Department of Corrections, and like information. The notice shall be given in all cases, except when placement of an emergency nature is necessary. In such emergency cases, oral notice shall be given to the appropriate parties within 24 hours with written notice to follow within 5 days.

(c) Persons on parole or mandatory supervised release status who have been previously released to the community, but who are not currently residing in a half-way house, may be placed in a half-way house upon the oral notification of the parties within 24 hours as indicated in subsection (b) of this Section. Such oral notification shall be followed with written notification within 5 days.

(Source: P.A. 88-680, eff. 1-1-95.)

ARTICLE 40

Section 40-10. The Criminal Code of 1961 is amended by re-enacting Section 12-6.1 as follows:

(720 ILCS 5/12-6.1) (from Ch. 38, par. 12-6.1)

Sec. 12-6.1. Compelling organization membership of persons. A person who expressly or impliedly threatens to do bodily harm or does bodily harm to an individual or to that individual's family or uses any other criminally unlawful means to solicit or cause any person to join, or deter any person from leaving, any organization or

association regardless of the nature of such organization or association, is guilty of a Class 2 felony.

Any person of the age of 18 years or older who expressly or impliedly threatens to do bodily harm or does bodily harm to a person under 18 years of age or uses any other criminally unlawful means to solicit or cause any person under 18 years of age to join, or deter any person under 18 years of age from leaving, any organization or association regardless of the nature of such organization or association is guilty of a Class 1 felony.

A person convicted of an offense under this Section shall not be eligible to receive a sentence of probation, conditional discharge, or periodic imprisonment.

(Source: P.A. 88-680, eff. 1-1-95; 89-8, eff. 1-1-96; 89-314, eff. 1-1-96; 89-626, eff. 8-9-96.)

ARTICLE 50

Section 50-3. The Firearm Owners Identification Card Act is amended by re-enacting Sections 2, 4, 8, and 14 as follows:

(430 ILCS 65/2) (from Ch. 38, par. 83-2)

Sec. 2. Firearm Owner's Identification Card required; exceptions.

(a) (1) No person may acquire or possess any firearm within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Department of State Police under the provisions of this Act.

(2) No person may acquire or possess firearm ammunition within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Department of State Police under the provisions of this Act.

(b) The provisions of this Section regarding the possession of firearms and firearm ammunition do not apply to:

(1) United States Marshals, while engaged in the operation of their official duties;

(2) Members of the Armed Forces of the United States or the National Guard, while engaged in the operation of their official

duties;

(3) Federal officials required to carry firearms, while engaged in the operation of their official duties;

(4) Members of bona fide veterans organizations which receive firearms directly from the armed forces of the United States, while using the firearms for ceremonial purposes with blank ammunition;

(5) Nonresident hunters during hunting season, with valid nonresident hunting licenses and while in an area where hunting is permitted; however, at all other times and in all other places these persons must have their firearms unloaded and enclosed in a case;

(6) Those hunters exempt from obtaining a hunting license who are required to submit their Firearm Owner's Identification Card when hunting on Department of Natural Resources owned or managed sites;

(7) Nonresidents while on a firing or shooting range recognized by the Department of State Police; however, these

persons must at all other times and in all other places have their firearms unloaded and enclosed in a case;

(8) Nonresidents while at a firearm showing or display recognized by the Department of State Police; however, at all other times and in all other places these persons must have their firearms unloaded and enclosed in a case;

(9) Nonresidents whose firearms are unloaded and enclosed in a case;

(10) Nonresidents who are currently licensed or registered to possess a firearm in their resident state;

(11) Unemancipated minors while in the custody and immediate control of their parent or legal guardian or other person in loco parentis to the minor if the parent or legal guardian or other person in loco parentis to the minor has a currently valid Firearm Owner's Identification Card;

(12) Color guards of bona fide veterans organizations or members of bona fide American Legion bands while using firearms for ceremonial purposes with blank ammunition;

(13) Nonresident hunters whose state of residence does not require them to be licensed or registered to possess a firearm and only during hunting season, with valid hunting licenses, while accompanied by, and using a firearm owned by, a person who possesses a valid Firearm Owner's Identification Card and while in an area within a commercial club licensed under the Wildlife Code where hunting is permitted and controlled, but in no instance upon sites owned or managed by the Department of Natural Resources; and

(14) Resident hunters who are properly authorized to hunt and, while accompanied by a person who possesses a valid Firearm Owner's Identification Card, hunt in an area within a commercial club licensed under the Wildlife Code where hunting is permitted and controlled.

(c) The provisions of this Section regarding the acquisition and possession of firearms and firearm ammunition do not apply to law enforcement officials of this or any other jurisdiction, while engaged in the operation of their official duties.

(Source: P.A. 88-680, eff. 1-1-95; 89-445, eff. 2-7-96.)

(430 ILCS 65/4) (from Ch. 38, par. 83-4)

Sec. 4. (a) Each applicant for a Firearm Owner's Identification Card must:

(1) Make application on blank forms prepared and furnished at convenient locations throughout the State by the Department of State Police; and

(2) Submit evidence under penalty of perjury to the Department of State Police that:

(i) He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual

prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he or she is not an individual prohibited from having a Card;

(ii) He or she has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He or she is not addicted to narcotics;

(iv) He or she has not been a patient in a mental institution within the past 5 years;

(v) He or she is not mentally retarded;

(vi) He or she is not an alien who is unlawfully present in the United States under the laws of the United States;

(vii) He or she is not subject to an existing order of protection prohibiting him or her from possessing a firearm;

(viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(ix) He or she has not been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after the effective date of this amendatory Act of 1997; and

(x) He or she has not been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before the effective date of this amendatory Act of 1997; and

(3) Upon request by the Department of State Police, sign a release on a form prescribed by the Department of State Police waiving any right to confidentiality and requesting the disclosure to the Department of State Police of limited mental health institution admission information from another state, the District of Columbia, any other territory of the United States, or a foreign nation concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be requested. The information received shall be destroyed within one year of receipt.

(b) Each application form shall include the following statement printed in bold type: "Warning: False statements of the applicant shall result in prosecution for perjury in accordance with Section 32-2 of the Criminal Code of 1961.".

(c) Upon such written consent, pursuant to Section 4, paragraph (a) (2) (i), the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

(Source: P.A. 90-493, eff. 1-1-98; 91-514, eff. 1-1-00.)

(430 ILCS 65/8) (from Ch. 38, par. 83-8)

Sec. 8. The Department of State Police has authority to deny an

application for or to revoke and seize a Firearm Owner's Identification Card previously issued under this Act only if the Department finds that the applicant or the person to whom such card was issued is or was at the time of issuance:

(a) A person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent;

(b) A person under 21 years of age who does not have the written consent of his parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or where such parent or guardian does not qualify to have a Firearm Owner's Identification Card;

(c) A person convicted of a felony under the laws of this or any other jurisdiction;

(d) A person addicted to narcotics;

(e) A person who has been a patient of a mental institution within the past 5 years;

(f) A person whose mental condition is of such a nature that it poses a clear and present danger to the applicant, any other person or persons or the community;

For the purposes of this Section, "mental condition" means a state of mind manifested by violent, suicidal, threatening or assaultive behavior.

(g) A person who is mentally retarded;

(h) A person who intentionally makes a false statement in the Firearm Owner's Identification Card application;

(i) An alien who is unlawfully present in the United States under the laws of the United States;

(j) A person who is subject to an existing order of protection prohibiting him or her from possessing a firearm;

(k) A person who has been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(l) A person who has been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after January 1, 1998;

(m) A person who has been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before January 1, 1998; or

(n) A person who is prohibited from acquiring or possessing firearms or firearm ammunition by any Illinois State statute or by federal law.

(Source: P.A. 89-367, eff. 1-1-96; 90-130, eff. 1-1-98; 90-493, eff. 1-1-98; 90-655, eff. 7-30-98.)

(430 ILCS 65/14) (from Ch. 38, par. 83-14)

Sec. 14. Sentence.

(a) A violation of paragraph (1) of subsection (a) of Section 2, when the person's Firearm Owner's Identification Card is expired but the person is not otherwise disqualified from renewing the card, is a Class A misdemeanor.

(b) Except as provided in subsection (a) with respect to an expired card, a violation of paragraph (1) of subsection (a) of Section 2 is a Class A misdemeanor when the person does not possess a currently valid Firearm Owner's Identification Card, but is otherwise eligible under this Act. A second or subsequent violation is a Class 4 felony.

(c) A violation of paragraph (1) of subsection (a) of Section 2

is a Class 3 felony when:

- (1) the person's Firearm Owner's Identification Card is revoked or subject to revocation under Section 8; or
 - (2) the person's Firearm Owner's Identification Card is
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expired and not otherwise eligible for renewal under this Act; or

(3) the person does not possess a currently valid Firearm Owner's Identification Card, and the person is not otherwise eligible under this Act.

(d) A violation of subsection (a) of Section 3 is a Class 4 felony.

(e) Any other violation of this Act is a Class A misdemeanor.

(Source: P.A. 88-680, eff. 1-1-95; 89-377, eff. 8-18-95.)

Section 50-5. The Criminal Code of 1961 is amended by re-enacting Sections 11-14, 11-14.1, 11-16, 11-19, 11-19.1, 11-19.2, 24-3, 24-3.1, 33A-1, 33A-3, and 33F-1 as follows:

(720 ILCS 5/11-14) (from Ch. 38, par. 11-14)

Sec. 11-14. Prostitution.

(a) Any person who performs, offers or agrees to perform any act of sexual penetration as defined in Section 12-12 of this Code for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification commits an act of prostitution.

(b) Sentence.

Prostitution is a Class A misdemeanor. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-15, 11-17, 11-18, 11-18.1 and 11-19 of this Code is guilty of a Class 4 felony. When a person has one or more prior convictions, the information or indictment charging that person shall state such prior conviction so as to give notice of the State's intention to treat the charge as a felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(c) A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 4 felony.

(Source: P.A. 91-274, eff. 1-1-00; 91-498, eff. 1-1-00; revised 10-20-99.)

(720 ILCS 5/11-14.1)

Sec. 11-14.1. Solicitation of a sexual act.

(a) Any person who offers a person not his or her spouse any money, property, token, object, or article or anything of value to perform any act of sexual penetration as defined in Section 12-12 of this Code, or any touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification, commits the offense of solicitation of a sexual act.

(b) Sentence. Solicitation of a sexual act is a Class B misdemeanor.

(Source: P.A. 88-325; 88-680, eff. 1-1-95.)

(720 ILCS 5/11-16) (from Ch. 38, par. 11-16)

Sec. 11-16. Pandering.

(a) Any person who performs any of the following acts for any money, property, token, object, or article or anything of value commits pandering:

(1) Compels a person to become a prostitute; or

(2) Arranges or offers to arrange a situation in which a person may practice prostitution.

(b) Sentence.

Pandering by compulsion is a Class 4 felony. Pandering other than by compulsion is a Class 4 felony.

(c) A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 3 felony.

(Source: P.A. 91-274, eff. 1-1-00.)

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(720 ILCS 5/11-19) (from Ch. 38, par. 11-19)

Sec. 11-19. Pimping.

(a) Any person who receives any money, property, token, object, or article or anything of value from a prostitute, not for a lawful consideration, knowing it was earned in whole or in part from the practice of prostitution, commits pimping.

(b) Sentence.

Pimping is a Class A misdemeanor. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-15, 11-17, 11-18 and 11-18.1 of this Code is guilty of a Class 4 felony. When a person has one or more prior convictions, the information or indictment charging that person shall state such prior conviction so as to give notice of the State's intention to treat the charge as a felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(c) A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 4 felony.

(Source: P.A. 91-274, eff. 1-1-00; 91-498, eff. 1-1-00; revised 10-20-99.)

(720 ILCS 5/11-19.1) (from Ch. 38, par. 11-19.1)

Sec. 11-19.1. Juvenile Pimping.

(a) Any person who receives any money, property, token, object, or article or anything of value from a prostitute under 16 years of age or from a prostitute who is an institutionalized severely or profoundly mentally retarded person, not for a lawful consideration, knowing it was earned in whole or in part from the practice of prostitution, commits juvenile pimping.

(b) It is an affirmative defense to a charge of juvenile pimping that the accused reasonably believed the person was of the age of 16 years or over or was not an institutionalized severely or profoundly mentally retarded person at the time of the act giving rise to the charge.

(c) Sentence.

Juvenile pimping is a Class 1 felony.

(Source: P.A. 88-680, eff. 1-1-95.)

(720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

Sec. 11-19.2. Exploitation of a child.

(A) A person commits exploitation of a child when he or she confines a child under the age of 16 or an institutionalized severely or profoundly mentally retarded person against his or her will by the infliction or threat of imminent infliction of great bodily harm, permanent disability or disfigurement or by administering to the child or an institutionalized severely or profoundly mentally retarded person without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act and:

(1) compels the child or an institutionalized severely or profoundly mentally retarded person to become a prostitute; or

(2) arranges a situation in which the child or an institutionalized severely or profoundly mentally retarded person may practice prostitution; or

(3) receives any money, property, token, object, or article or anything of value from the child or an institutionalized severely or profoundly mentally retarded person knowing it was obtained in whole or in part from the practice of prostitution.

(B) For purposes of this Section, administering drugs, as defined in subsection (A), or an alcoholic intoxicant to a child under the age of 13 or an institutionalized severely or profoundly

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mentally retarded person shall be deemed to be without consent if such administering is done without the consent of the parents or legal guardian.

(C) Exploitation of a child is a Class X felony.

(D) Any person convicted under this Section is subject to the forfeiture provisions of Section 11-20.1A of this Act.

(Source: P.A. 91-357, eff. 7-29-99.)

(720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

Sec. 24-3. Unlawful Sale of Firearms.

(A) A person commits the offense of unlawful sale of firearms when he or she knowingly does any of the following:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under 18 years of age. ~~;~~

(b) Sells or gives any firearm to a person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent. ~~;~~

(c) Sells or gives any firearm to any narcotic addict. ~~;~~

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction. ~~;~~

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past 5 years. ~~;~~

(f) Sells or gives any firearms to any person who is mentally retarded. ~~;~~

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding

delivery of such rifle, shotgun or other long gun for at least 24 hours after application for its purchase has been made. However, this paragraph (g) does ~~shall~~ not apply to: (1) the sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his or her employment as a bank guard, armed truck guard, or other similar employment; ~~or~~ (2) a mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; ~~or~~ (3) the sale of a firearm to a nonresident of Illinois while at a firearm showing or display recognized by the Illinois Department of State Police; or (4) the sale of a firearm to a dealer licensed under the Federal Firearms Act of the United States. ~~;~~ ~~or~~

(h) While holding any license ~~under the federal "Gun Control Act of 1968", as amended,~~ as a dealer, importer, manufacturer or pawnbroker under the federal Gun Control Act of 1968, manufactures, sells or delivers to any unlicensed person a handgun having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. For purposes of this paragraph, (1) "firearm" is defined as in the Firearm Owners Identification Card Act "An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition, to provide a penalty for the violation thereof and to make an appropriation in connection therewith", approved August 3, 1967, as amended; and (2) "handgun" is defined as a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which such a firearm can be assembled. ~~;~~ ~~or~~

(i) Sells or gives a firearm of any size to any person under 18 years of age who does not possess a valid Firearm

Owner's Identification Card.

(B) ~~(j)~~ Paragraph (h) of subsection (A) does ~~this Section shall~~ not include firearms sold within 6 months after enactment of Public Act 78-355 (approved August 21, 1973, effective October 1, 1973) ~~this amendatory Act of 1973,~~ nor ~~is shall~~ any firearm legally owned or possessed by any citizen or purchased by any citizen within 6 months after the enactment of Public Act 78-355 ~~this amendatory Act of 1973~~ ~~be~~ subject to confiscation or seizure under the provisions of that Public ~~this amendatory Act of 1973~~. Nothing in Public Act 78-355 ~~this amendatory Act of 1973~~ shall be construed to prohibit the gift or trade of any firearm if that firearm was legally held or acquired within 6 months after the enactment of that Public ~~this amendatory Act of 1973~~.

(C) ~~(k)~~ Sentence.

(1) Any person convicted of unlawful sale of firearms in violation of any of paragraphs (c) through (h) of subsection (A) commits a Class 4 felony.

(2) Any person convicted of unlawful sale of firearms in violation of paragraph (b) or (i) of subsection (A) commits a Class 3 felony.

(3) Any person convicted of unlawful sale of firearms in

violation of paragraph (a) of subsection (A) commits a Class 2 felony.

(4) Any person convicted of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which ~~that~~ the offense was committed, commits a Class 1 felony. Any person convicted of a second or subsequent violation of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which ~~that~~ the offense was committed, commits a Class 1 felony for which the sentence shall be a term of imprisonment of no less than 5 years and no more than 15 years.

(5) Any person convicted of unlawful sale of firearms in violation of paragraph (a) or (i) of subsection (A) in residential property owned, operated, or managed by a public housing agency, in a public park, in a courthouse, on residential property owned, operated, or managed by a public housing agency, on the real property comprising any public park, on the real property comprising any courthouse, or on any public way within 1,000 feet of the real property comprising any public park, courthouse, or residential property owned, operated, or managed by a public housing agency commits a Class 2 felony.

(D) ~~(6)~~ For purposes of this Section:

"School" means a public or private elementary or secondary school, community college, college, or university.

"School related activity" means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(Source: P.A. 91-12, eff. 1-1-00; revised 8-18-99.)

(720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

Sec. 24-3.1. Unlawful possession of firearms and firearm ammunition.

(a) A person commits the offense of unlawful possession of firearms or firearm ammunition when:

(1) He is under 18 years of age and has in his possession any firearm of a size which may be concealed upon the person; or

(2) He is under 21 years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(3) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(4) He has been a patient in a mental hospital within the past 5 years and has any firearms or firearm ammunition in his possession; or

(5) He is mentally retarded and has any firearms or firearm ammunition in his possession; or

(6) He has in his possession any explosive bullet.

For purposes of this paragraph "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap; or

(b) Sentence.

Unlawful possession of firearms, other than handguns, and firearm ammunition is a Class A misdemeanor. Unlawful possession of handguns is a Class 4 felony.

(Source: P.A. 88-680, eff. 1-1-95.)

(720 ILCS 5/33A-1) (from Ch. 38, par. 33A-1)

Sec. 33A-1. Legislative intent and definitions.

(a) Legislative findings. The legislature finds and declares the following:

(1) The use of a dangerous weapon in the commission of a felony offense poses a much greater threat to the public health, safety, and general welfare, than when a weapon is not used in the commission of the offense.

(2) Further, the use of a firearm greatly facilitates the commission of a criminal offense because of the more lethal nature of a firearm and the greater perceived threat produced in those confronted by a person wielding a firearm. Unlike other dangerous weapons such as knives and clubs, the use of a firearm in the commission of a criminal felony offense significantly escalates the threat and the potential for bodily harm, and the greater range of the firearm increases the potential for harm to more persons. Not only are the victims and bystanders at greater risk when a firearm is used, but also the law enforcement officers whose duty is to confront and apprehend the armed suspect.

(3) Current law does contain offenses involving the use or discharge of a gun toward or against a person, such as aggravated battery with a firearm, aggravated discharge of a firearm, and reckless discharge of a firearm; however, the General Assembly has legislated greater penalties for the commission of a felony while in possession of a firearm because it deems such acts as more serious.

(b) Legislative intent.

(1) In order to deter the use of firearms in the commission of a felony offense, the General Assembly deems it appropriate for a greater penalty to be imposed when a firearm is used or

discharged in the commission of an offense than the penalty imposed for using other types of weapons and for the penalty to increase on more serious offenses.

(2) With the additional elements of the discharge of a firearm and great bodily harm inflicted by a firearm being added to armed violence and other serious felony offenses, it is the intent of the General Assembly to punish those elements more severely during commission of a felony offense than when those elements stand alone as the act of the offender.

(3) It is the intent of the 91st General Assembly that should Public Act 88-680 be declared unconstitutional for a violation of Article 4, Section 8 of the 1970 Constitution of the State of Illinois, the amendatory changes made by Public Act 88-680 to Article 33A of the Criminal Code of 1961 and which are set forth as law in this amendatory Act of the 91st General Assembly are hereby reenacted by this amendatory Act of the 91st General Assembly.

(c) Definitions.

(1) "Armed with a dangerous weapon". A person is considered armed with a dangerous weapon for purposes of this Article, when he or she carries on or about his or her person or is otherwise armed with a Category I, Category II, or Category III weapon.

(2) A Category I weapon is a handgun, sawed-off shotgun, sawed-off rifle, any other firearm small enough to be concealed upon the person, semiautomatic firearm, or machine gun. A Category II weapon is any other rifle, shotgun, spring gun, other firearm, stun gun or taser as defined in paragraph (a) of Section 24-1 of this Code, knife with a blade of at least 3 inches in length, dagger, dirk, switchblade knife, stiletto, axe, hatchet, or other deadly or dangerous weapon or instrument of like character. As used in this subsection (b) "semiautomatic firearm" means a repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.

(3) A Category III weapon is a bludgeon, black-jack, slungshot, sand-bag, sand-club, metal knuckles, billy, or other dangerous weapon of like character.

(Source: P.A. 91-404, eff. 1-1-00.)

(720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

Sec. 33A-3. Sentence.

(a) Violation of Section 33A-2(a) with a Category I weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 15 years.

(a-5) Violation of Section 33A-2(a) with a Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 10 years.

(b) Violation of Section 33A-2(a) with a Category III weapon is a Class 2 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty. A second or subsequent violation of Section 33A-2(a) with a Category III weapon is a Class 1 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty.

(b-5) Violation of Section 33A-2(b) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 20 years.

(b-10) Violation of Section 33A-2(c) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a term of imprisonment of not less

than 25 years nor more than 40 years.

(c) Unless sentencing under Section 33B-1 is applicable, any person who violates subsection (a) or (b) of Section 33A-2 with a firearm, when that person has been convicted in any state or federal court of 3 or more of the following offenses: treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, arson, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, or a violation of Section 401(a) of the Illinois Controlled Substances Act, when the third offense was committed after conviction on the second, the second offense was committed after conviction on the first, and the violation of Section 33A-2 was committed after conviction on the third, shall be sentenced to a term of imprisonment of not less than 25 years nor more than 50 years.

(c-5) Except as otherwise provided in paragraph (b-10) or (c) of this Section, a person who violates Section 33A-2(a) with a firearm that is a Category I weapon or Section 33A-2(b) in any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or on the real property comprising any school or public park, and where the offense was related to the activities of an organized gang, shall be sentenced to a term of imprisonment of not less than the term set forth in subsection (a) or (b-5) of this Section, whichever is applicable, and not more than 30 years. For the purposes of this subsection (c-5), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(d) For armed violence based upon a predicate offense listed in this subsection (d) the court shall enter the sentence for armed violence to run consecutively to the sentence imposed for the predicate offense. The offenses covered by this provision are:

- (i) solicitation of murder,
- (ii) solicitation of murder for hire,
- (iii) heinous battery,
- (iv) aggravated battery of a senior citizen,
- (v) criminal sexual assault,
- (vi) a violation of subsection (g) of Section 5 of the Cannabis Control Act,
- (vii) cannabis trafficking,
- (viii) a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act,
- (ix) controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act,
- (x) calculated criminal drug conspiracy, or
- (xi) streetgang criminal drug conspiracy.

(Source: P.A. 91-404, eff. 1-1-00.)

(720 ILCS 5/33F-1) (from Ch. 38, par. 33F-1)

Sec. 33F-1. Definitions. For purposes of this Article:

(a) "Body Armor" means any one of the following:

- (1) A military style flak or tactical assault vest which is

made of Kevlar or any other similar material or metal, fiberglass, plastic, and nylon plates and designed to be worn over one's clothing for the intended purpose of stopping not only missile fragmentation from mines, grenades, mortar shells and artillery fire but also fire from rifles, machine guns, and small arms.

(2) Soft body armor which is made of Kevlar or any other similar material or metal or any other type of insert and which is lightweight and pliable and which can be easily concealed under a shirt.

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(3) A military style recon/surveillance vest which is made of Kevlar or any other similar material and which is lightweight and designed to be worn over one's clothing.

(4) Protective casual clothing which is made of Kevlar or any other similar material and which was originally intended to be used by undercover law enforcement officers or dignitaries and is designed to look like jackets, coats, raincoats, quilted or three piece suit vests.

(b) "Dangerous weapon" means a Category I, Category II, or Category III weapon as defined in Section 33A-1 of this Code. (Source: P.A. 87-521; 88-680, eff. 1-1-95.)

Section 50-10. The Wrongs to Children Act is amended by re-enacting Section 5.1 as follows:

(720 ILCS 150/5.1) (from Ch. 23, par. 2355.1)

Sec. 5.1. A. A parent, step-parent, legal guardian, or other person having custody of a child who knowingly allows or permits an act of criminal sexual abuse or criminal sexual assault as defined in Section 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, upon his or her child, or knowingly permits, induces, promotes, or arranges for the child to engage in prostitution as defined in Section 11-14 of the Criminal Code of 1961, and fails to take reasonable steps to prevent its commission or future occurrences of such acts commits the offense of permitting the sexual abuse of a child. For purposes of this Section, "child" means a minor under the age of 17 years.

B. Any person convicted of permitting the sexual abuse of a child is guilty of a Class 1 felony. (Source: P.A. 88-680, eff. 1-1-95; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

Section 50-15. The Unified Code of Corrections is amended by re-enacting Section 5-5-3 as follows:

(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition.

(a) Every person convicted of an offense shall be sentenced as provided in this Section.

(b) The following options shall be appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than those identified in subsection (c) of this Section:

- (1) A period of probation.
- (2) A term of periodic imprisonment.
- (3) A term of conditional discharge.
- (4) A term of imprisonment.

(5) An order directing the offender to clean up and repair the damage, if the offender was convicted under paragraph (h) of Section 21-1 of the Criminal Code of 1961.

(6) A fine.

(7) An order directing the offender to make restitution to the victim under Section 5-5-6 of this Code.

(8) A sentence of participation in a county impact incarceration program under Section 5-8-1.2 of this Code.

Whenever an individual is sentenced for an offense based upon an arrest for a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. However, if the

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individual is not a resident of Illinois, the court may accept an alcohol or other drug evaluation or remedial education program in the state of such individual's residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

In addition to any other fine or penalty required by law, any individual convicted of a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of local ordinance, whose operation of a motor vehicle while in violation of Section 11-501 or such ordinance proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. Such restitution shall not exceed \$500 per public agency for each such emergency response. For the purpose of this paragraph, emergency response shall mean any incident requiring a response by: a police officer as defined under Section 1-162 of the Illinois Vehicle Code; a fireman carried on the rolls of a regularly constituted fire department; and an ambulance as defined under Section 4.05 of the Emergency Medical Services (EMS) Systems Act.

Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed only in conjunction with another disposition.

(c) (1) When a defendant is found guilty of first degree murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.

(2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

(A) First degree murder where the death penalty is not

imposed.

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing cocaine or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony within 10 years of the date on which he committed the offense for which he is being sentenced.

(G) Residential burglary.

(H) Criminal sexual assault, except as otherwise provided in subsection (e) of this Section.

(I) Aggravated battery of a senior citizen.

(J) A forcible felony if the offense was related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has the meaning ascribed to it

in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

(L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.

(M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.

(N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.

(O) A violation of Section 12-6.1 of the Criminal Code of 1961.

(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.

(Q) A violation of Section 20-1.2 of the Criminal Code of 1961.

(R) A violation of Section 24-3A of the Criminal Code of 1961.

(3) A minimum term of imprisonment of not less than 48 consecutive hours or 100 hours of community service as may be

determined by the court shall be imposed for a second or subsequent violation committed within 5 years of a previous violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(4) A minimum term of imprisonment of not less than 7 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of the Illinois Vehicle Code.

(4.1) A minimum term of 30 consecutive days of imprisonment, 40 days of 24 hour periodic imprisonment or 720 hours of community service, as may be determined by the court, shall be imposed for a violation of Section 11-501 of the Illinois Vehicle Code during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of Section 11-501 or Section 11-501.1 of that Code.

(5) The court may sentence an offender convicted of a business offense or a petty offense or a corporation or unincorporated association convicted of any offense to:

(A) a period of conditional discharge;

(B) a fine;

(C) make restitution to the victim under Section 5-5-6 of this Code.

(6) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.

(7) When a defendant is adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.

(8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted of any Class 2 or greater Class felonies in Illinois, and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this

amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second.

(9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections.

(e) In cases where prosecution for criminal sexual assault or aggravated criminal sexual abuse under Section 12-13 or 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

- (1) the court finds (A) or (B) or both are appropriate:
 - (A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or
 - (B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:
 - (i) removal from the household;
 - (ii) restricted contact with the victim;
 - (iii) continued financial support of the family;
 - (iv) restitution for harm done to the victim; and
 - (v) compliance with any other measures that the court may deem appropriate; and

- (2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an

examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim

and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any

violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, or any violation of the Cannabis Control Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substance Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of

completing the educational or vocational program.

(k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.

(l) (A) Except as provided in paragraph (C) of subsection (1), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or

misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

Otherwise, the defendant shall be sentenced as provided in this Chapter V.

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (1) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680, eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98; 91-357, eff.

7-29-99; 91-404, eff. 1-1-00.)

ARTICLE 900

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

ARTICLE 990

Section 990-1. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

ARTICLE 999

Section 999-1. Effective date. This Act takes effect upon becoming law."

Senator O'Malley moved the adoption of the foregoing amendment.

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The motion prevailed and the amendment was adopted and ordered printed.

And **House Bill No. 2610**, as amended, was returned to the order of third reading.

At the hour of 3:10 o'clock p.m., Senator Maitland presiding.

READING A BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Petka, **House Bill No. 2610** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote: Yeas 33; Nays 3; Present 21.

The following voted in the affirmative:

Bomke	Hendon	Maitland	Radogno
Bowles	Jones, W.	Mitchell	Rauschenberger
Burzynski	Karpiel	Myers	Sieben
Cronin	Klemm	Noland	Sullivan
Dillard	Lauzen	O'Malley	Syverson
Dudycz	Luechtefeld	Parker	Walsh, T.
Geo-Karis	Madigan, R.	Peterson	Watson
Hawkinson	Mahar	Petka	Weaver
			Mr. President

The following voted in the negative:

Halvorson
Molaro
Shadid

The following voted present:

Berman	Demuzio	Link	Silverstein
Clayborne	Fawell	Munoz	Smith
Cullerton	Jacobs	Obama	Trotter
DeLeo	Jones, E.	O'Daniel	Viverito
del Valle	Lightford	Shaw	Walsh, L.
			Welch

This bill, having failed to receive the vote of three-fifths of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

At the hour of 3:31 o'clock p.m., Senator Watson presiding.

ANNOUNCEMENT FROM THE CHAIR

The intent of the Chair is to adjourn for three days pursuant to constitutional provisions. When the Senate convenes on Friday and thereafter, it shall be in perfunctory session unless otherwise noted with proper notification to the members.

At the hour of 3:37 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, December 24, 1999 at 9:00 o'clock a.m.